



February 9, 2000

Ms. Elaine S. Hengen  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR2000-0491

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132060.

The City of El Paso Police Department (the "department") received a request for information regarding its policies relating to emergency response and use of caution. You state that portions of the department's policy manual, marked as Exhibit B, have been released to the requestor. However, you inform us that the department has withheld portions of the policy manual concerning its use of force policy in accordance with a prior ruling on this information. Open Records Decision No. 99-2173 (1999). You assert that certain portions of the policy manual concerning the department's revised use of force policy and pursuit policy are excepted from disclosure under section 552.108 of the Government Code. You have highlighted those portions of the policy manual that you seek to withhold from disclosure. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(b)(1) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . release of the internal record or notation would interfere with law enforcement or prosecution." You have explained in detail why releasing the highlighted portions of the policy manual, an internal department document, would interfere with law enforcement. Thus, after review of your arguments and Exhibit B, we conclude that the department may withhold the highlighted information from disclosure under section 552.108(b)(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

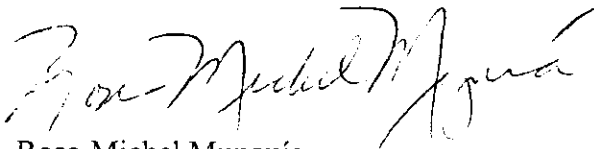
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguía". The signature is fluid and cursive, with the first name "Rose" and last name "Munguía" clearly distinguishable.

Rose-Michel Munguía  
Assistant Attorney General  
Open Records Division

RMM/jc

Ref: ID# 132060

Encl. Submitted documents

cc: Mr. Jeffrey Lee Johnson  
125 Vaquero Lane #151  
El Paso, Texas 79912-6055  
(w/o enclosures)